

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X		
MARIO RINALDI,	:	
	:	
Plaintiff,	:	
	:	16-CV-1901 (VSB)
- against -	:	
	:	<u>ORDER</u>
	:	
SCA LA GOUTTE, D'OR, et al.,	:	
	:	
Defendants.	:	
	:	
-----X		

VERNON S. BRODERICK, United States District Judge:

I have learned that, based on a new safety protocol, no one may unmask in the courtroom—even in the HEPA-filter-outfitted witness and attorney boxes—unless they have tested negative for COVID-19 using an approved molecular diagnostic test. (Antigen tests are not approved.) If a person will be removing his or her mask on successive days, the person may test on an every-other-day schedule; otherwise, the speaker must test negative on the day of his or her appearance. If a speaker has had a confirmed case of COVID-19 within the prior ninety days (verified by either a doctor's note or a viral test result), he or she will be exempted from these testing requirements. Confirmation of negative test results (or of a prior case of COVID-19) must be provided to the Court through its staff.

This new policy will be in effect when trial begins on Thursday, February 17, 2022, and applies to all witnesses and counsel who intend to speak without a mask. Counsel should make adequate preparations to comply with these requirements before trial starts. I will not delay the start of the proceedings on account of this new policy. Since this is a jury trial and the jury will be tasked with making credibility determinations, counsel should meet and confer concerning

any witness who intends to testify with a mask to determine if their adversary has an objection, and the parties should file a letter briefing any such objection, supported by legal authority, on or before February 10, 2022.

The following is a list of the tests that are approved:

- PCR / RT-PCR / ddPCR / Rapid PCR (Polymerase Chain Reaction)
- NAA / NAAT (Nucleic Acid Amplification)
- AMP PRB (Amplified Probe)
- LAMP (Loop-mediated Isothermal Amplification)
- Accepted molecular diagnostic test brands, including but not limited to:
 - Abbott ID NOW
 - Quidel Lyra PCR
 - Abbott Realtime PCR
 - Cobas Qualitative PCR
 - FTD PCR
 - Xpert Xpress
 - Simplexa Direct PCR
 - RUCDR Infinite Biologics
 - Lucira Health

The following are tests that are NOT approved:

- All tests that do not have FDA authorization or approval
- All Antigen (Ag) tests (including but not limited to Quidel Sophia, Abbott BinaxNOW and Rapid Antigen Tests)
- All Antibody tests (such as IgG, IgA, IgM and Rapid Antibody Tests)
- All blood tests (such as fingerstick, venipuncture)
- All plasma tests
- All serum tests
- All lateral flow tests
- Any doctor's note

If counsel have any questions or need assistance (either procuring an approved test or arranging for a location within the courthouse to perform a test), they should email covid_response@nysd.uscourts.gov. If needed, the Court has tests that can be made available to the parties free-of-charge and that can be taken one hour prior to the scheduled appearance time, provided that there is 24-hours' notice sent to the Covid Response email.

SO ORDERED.

Dated: February 3, 2022
New York, New York

A handwritten signature in black ink, reading "Vernon Broderick". The signature is written in a cursive style with a large, stylized "V" and "B".

Vernon S. Broderick
United States District Judge